

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID COLE,

Plaintiff,

vs.

JIM STIRLING MOTORS, INC.

Defendant.

C03-5320RJB

**MINUTE ORDER**  
RE: MOTIONS IN LIMINE

NOW, on this 12th of September, 2006, the Court directs the Clerk to enter the following Minute Order for the reasons stated orally in open court:

**(Dkt #44)**

Plaintiff moves to exclude the following evidence:

Plaintiff's Motion in Limine, **No. 1**: All evidence that after his termination, plaintiff hurt defendant's business by soliciting defendant's customers, as no breakdown of that harm was ever presented to plaintiff in discovery, despite requests to do so is **DENIED**;

Plaintiff's Motion in Limine **No. 2**: All evidence related to damages suffered by defendant resulting from allegations that plaintiff improperly stole "spin" money as no breakdown of that harm was ever presented to plaintiff in discovery, despite requests to do so is **GRANTED**;

Plaintiff's Motion in Limine **No. 3**: Any speculation or argument about the substance of the testimony of any witness who is absent or unavailable is **GRANTED**;

Plaintiff's Motion in Limine **No. 4**: Any reference to plaintiff's previous claim in small claims court 26 years ago for unpaid wage claims was not contested and is **GRANTED**;

Plaintiff's Motion in Limine **No. 5**: Any reference to the fact he stabbed his father when he was 13 years old was not contested and is **GRANTED**;

Plaintiff's Motion in Limine **No. 6**: Any reference to plaintiff's activities as a Jehovah's witness, i.e. door to door canvassing as mentioned by defendant's counsel in deposition of plaintiff on pages 86 and 87 is **DENIED**, as set forth in the Court's oral ruling;

1 Plaintiff's Motion in Limine **No. 7**: Any reference that religious discrimination is  
2 acceptable due to the fact that different religions make jokes about themselves as  
3 mentioned by defendant's counsel in deposition of plaintiff on pages 92 and 93 is  
**DENIED**, as set forth in the Court's oral ruling;

4 Plaintiff's Motion in Limine **No. 8**: Any reference that individuals at Stirling had no  
5 objections to plaintiff's religion is **DENIED**;

6 Plaintiff's Motion in Limine **No. 9**: Any personal attack on the plaintiff's counsel including  
7 any reference to plaintiff's counsel being from out of town, or not being local is  
**GRANTED**;

8 Plaintiff's Motion in Limine **No. 10**: All evidence relating tot he fact that plaintiff's  
9 previous counsel withdrew is **GRANTED**;

10 Plaintiff's Motion in Limine **No. 11**: Any reference to the receipt by plaintiff, or his  
11 entitlement to receive, benefits of any kind of from a collateral source is **GRANTED**;

12 Plaintiff's Motion in Limine **No. 12**: Any reference to the fact that plaintiff failed to call  
13 any witness equally available to all parties in the case is **GRANTED**; and

14 Plaintiff's Motion in Limine **No. 13**: Any reference to the time or circumstances under  
15 which plaintiff has employed a lawyer, or that a motive, purpose or result of this lawsuit  
16 will be to compensate plaintiff's lawyers is **GRANTED**.

17 **(Dkt #48)**

18 Defendant's Motion in Limine **No. 1**: That plaintiff be required to disclose and  
19 show to the Court and to defense counsel, before trial begins, all demonstrative  
20 trial exhibits is **GRANTED**;

21 Defendant's Motion in Limine **No. 2**: The Court should exclude allegations of  
22 harassment unrelated to plaintiff's claims is **DENIED**, as set forth in Court's oral  
23 ruling;

24 Defendant's Motion in Limine **No. 3**: Hearsay should be excluded is **DENIED AS**  
**MOOT**;

25 Defendant's Motion in Limine **No. 4**: Plaintiff should not be allowed to present  
26 testimony that he was in general a good, honest person or a good salesperson is  
**DENIED**, as set forth in Court's oral ruling;

Defendant's Motion in Limine **No. 5**:

A. The plaintiff should be limited to information produced in discovery is  
**DENIED**;

B. All witnesses not specifically disclosed should be disclosed excluded  
and witnesses should be limited to the scope disclosed is **DENIED**;

1 Defendant's Motion in Limine **No. 6**: The Plaintiff's evidence regarding  
2 defamation should be limited both in regard to hearsay and to comments that  
3 create a question of fact on defamation is **DENIED**.

4 Defendant's Supplemental Motion in Limine Regarding Lonnie Reed, **Dkt #50**, is  
5 **DENIED**.

6 Defendant's Motion in Limine to Exclude Lay Witness Testimony Regarding Plaintiff's  
7 Defamation Claim, **DKT #53**, is **DENIED**.

8 **(Dkt #56)**

9 Plaintiff moves to exclude the following evidence:

10 **No. 1**: Defendant should not be permitted to raise the Ellerth/Faragher defense. This  
11 motion remains pending to be resolved as part of trial and/or jury instructions;

12 **No. 2**: All evidence relating to Plaintiff's estimates on how many former customers  
13 defendant Jim Stirling Motors bought vehicles from Plaintiff when Plaintiff was  
14 employed at Bud Clary Chevrolet from 1/4/04 through 2/18/04 is **DENIED**, as set  
15 forth in Court's oral ruling;

16 **No. 3**: All information sought in Plaintiff's request for deposition upon written questions  
17 to John Stirling is **DENIED AS NOT TIMELY**.

18  
19 The foregoing Minute Order entered by Dara Kaleel, by direction of the Honorable  
20 ROBERT J. BRYAN, United States District Judge.  
21  
22  
23  
24  
25  
26